

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LAWRENCE JONES,

Plaintiff,

No. CIV S-03-0170 GEB DAD P

vs.

CONSTANCE CUMMINGS, et al.,

Defendants.

ORDER

Defendants have filed a motion to compel plaintiff to respond to two discovery requests without objection. Defendants offer evidence that both requests were served on plaintiff on September 26, 2005, and that plaintiff failed to respond in any way to the requests, despite two attempts by defendants' counsel to meet and confer. Plaintiff has not filed opposition or a statement of non-opposition to defendants' motion.

Plaintiff is in violation of multiple court orders and rules. First, plaintiff failed to respond to defendants' motion. Pursuant to the order filed in this action on February 26, 2003, all motions concerning discovery shall be briefed by the parties pursuant to Local Rule 78-230(m). (Order filed Feb. 26, 2003, at 2-3.) The same order cautions that failure to oppose a motion timely may be deemed a waiver of opposition to the motion. (*Id.* at 3.) Second, the discovery order filed in this action on March 23, 2004, provides that responses to written

1 discovery requests shall be served on the requesting party no later than forty-five days after the
2 request was first served.¹ (Order filed Mar. 23, 2004, at 1.) The order further provides that, “[i]f
3 disputes arise about the parties’ obligations to respond to requests for discovery, the parties shall
4 comply with all pertinent rules,” including the briefing requirements of Local Rule 78-230(m).
5 (Id. at 2.) Plaintiff did not serve responses to defendants’ discovery requests within forty-five
6 days, did not seek an extension of time to respond to defendants’ requests, and did not respond to
7 defendants’ motion to compel. For these reasons, the court will grant defendants’ motion to
8 compel discovery pursuant to Rule 37(a)(2)(B) of the Federal Rules of Civil Procedure and
9 require plaintiff to serve responses without objections.

10 IT IS HEREBY ORDERED that:

- 11 1. Defendants’ December 7, 2005 motion to compel is granted;
- 12 2. Plaintiff shall respond to Defendants’ Request for Production of Documents
13 (Set Two) and Defendants’ Special Interrogatories (Set Two) without objections; and
- 14 3. Plaintiff’s responses shall be served on defendants’ counsel within twenty days
15 from the date of this order and shall also be filed with the court with proof of service on
16 defendants’ counsel.

17 DATED: January 19, 2006.

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20 _____
DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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24 ¹ Both of defendants’ discovery requests erroneously instructed plaintiff to respond no
25 later than thirty days from date of service. Counsel’s first meet-and-confer letter, dated
26 November 8, 2005, was premature because plaintiff was not required to place his responses in the
mail until forty-five days after September 26, 2005. Plaintiff’s responses were overdue when
counsel sent the second letter, dated November 22, 2005. Counsel are cautioned that subsequent
discovery requests must be consistent with the court’s discovery order.